



STATE BOARD OF EQUALIZATION

STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

DRAFT

Date Amended:	Enrolled	Bill No:	AB 2857
Tax:	Property	Author:	Laird
Related Bills:			

BILL SUMMARY

This bill would clarify that when an assessment appeal application on a base year value is not timely heard and decided within two years of filing an appeal the taxpayer's opinion of value will become the taxable value of the property until the appeal is decided. For other types of appeals (i.e., decline in value, personal property, etc.) the taxpayers opinion of value will be enrolled for the tax year covered by the application.

Current Law

A taxpayer may appeal the assessed value of his or her property for property tax purposes by filing an application for reduction in assessment with the county board of equalization or assessment appeals board. The application requires that the taxpayer state an opinion of value. In order to induce an appeals board not to delay a hearing and decision on applications, Revenue and Taxation Code Section 1604 provides that if the appeals board fails to hear evidence and make a final determination on the application within two years of the timely filing of the application, the taxpayer's opinion of market value, as reflected on the application, will be the value upon which taxes are to be levied for the tax year covered by the application. If the applicant's opinion of value has been placed on the assessment roll, because the application was not timely heard and decided, that value is to remain on the roll until the assessment appeals board makes a final determination on that application.

Revenue and Taxation Code Section 80 (a) provides that base year value appeals must be filed during the appropriate filing period for the year in which the assessment is placed on the roll or in any of the three succeeding years.

Proposed Law

This bill would amend subdivision (d) of Section 1604 to explicitly address the distinction between placement of a taxpayer's opinion of value on the roll as it relates to base year value appeals and all other appeals. With respect to an appeal application that requests a reduction in the base year value of an assessment filed pursuant to subdivision (a) of Section 80, the applicant's opinion of value, as stated on the application, shall remain on the roll until the county board makes a final determination on the application. In instances other than an application filed pursuant to subdivision (a) of Section 80, the applicant's opinion of value shall be enrolled on the assessment roll for the tax year or tax years covered by that application. (The value will be enrolled and the taxpayer has won for that tax year or tax years by default of the assessment appeals board.)

In General

Assessment Appeals Boards. Local appeals boards are independent agencies, separate from the assessor's office, established to decide disputes between county assessors and property owners. All 58 counties in California have appeals board proceedings. In some counties, the elected county board of supervisors will hear appeals directly, meeting as a board of equalization. Other counties, however, have a separate assessment appeals board or boards appointed by the county board of supervisors that constitute the board of equalization.

COMMENTS:

1. **Sponsor and Purpose.** This bill is sponsored by the California Assessors' Association. Its purpose is to clarify that when a county board of equalization fails within two years to make a final determination on an application for reduction in assessment involving a base year value of real property, the applicant's opinion of value shall remain on the roll until the board acts to make a final determination on the application. By making this change it would clarify that a reduction in assessed value that occurs as a result of a failure of a board to render a timely decision on an application for reduction in an assessment of personal property or one that involves a decline in value would be effective for the one year covered by the application.
2. **Amendments.** The June 10 amendment recasts its provisions for technical precision.
3. **The appeals board is expected to hear and decide all appeals within two years of the filing of an application.** If more than two years pass after timely filing of an application before the application is heard and decided, the taxpayer's opinion of value becomes the taxable value of the property on the assessment roll by default until the appeals board hears and decides the application.
4. **There are different types of appeals.** Base year value appeals, which apply to real property, permanently affect the upper limit of value of property for all future tax years as long as a property is under the same ownership or does not undergo new construction. Real property in a decline in value status and personal property appeals are assessed annually and an application appealing those values only affect the one particular tax year in dispute.
 - **Base Year Value Appeals.** The "Base Year Value" of a property is the Proposition 13 protected value of a property. This is the "control figure" under Proposition 13 – once the base year value is established it can increase no more than 2% per year regardless of the actual market value of the property. For applications involving base year value appeals, if the applicant's opinion of value has been placed on the roll because the appeals board was unable to hear the application timely, that value remains on the roll until the appeals board makes a final determination on the application. Base year value appeals are the most important type of appeal because of their permanence.

- **Decline in Value Appeals.** It is possible that the base year value annually factored forward by the maximum 2% inflation factor (called the “factored base year value”) could exceed its fair market value. This generally occurs when there has been a real estate market decline or damage or destruction to a property. To ensure that property owners are never assessed for more than a property’s current fair market value, the law provides that as of the lien date, which is January 1 of every year, the property is to be assessed at the lower of its current market value or its factored base year value. (Section 51) Decline in value reductions may be granted automatically by the assessor without any property owner action, but where the assessor has not made such a reduction and a property owner believes a reduction is warranted an appeal may be filed. Unlike the permanent control figure of the “base year value,” an appeal for a decline in value reduction is date specific and only relevant to one tax year. For applications appealing decline in value that have not been heard and decided by the end of the two-year period, the applicant’s opinion of value will be enrolled on the assessment roll for the tax year or years covered by the pending application.
 - **Personal Property Appeals.** Other than the tax rate, Proposition 13 does not apply to personal property. Personal property is valued each year at its current market value. Consequently an appeal must be filed each year to seek a reduction in value. In some cases, the appeal may be on the grounds that the property is not taxable.
5. **In the case of a decline in value appeal or a personal property appeal, if an appeal is not heard within two years, the taxpayer effectively has won the appeal on that particular application.** Unlike base year value appeals, these other types of appeals are specific to the tax year specified on the application. Because the taxpayer’s opinion of value was placed on the roll for that tax year, the taxpayer has won by default.
6. **This bill makes it clear that in cases other than a base year value appeal, the applicant’s opinion of value becomes controlling due to lack of a timely determination for the tax year or years covered by the pending application.** These provisions address a recent court case, *FlightSafety International, Inc. v. Los Angeles County Assessment Appeals Board* (2003) 105 Cal.App.4th 620 in which a taxpayer’s opinion of value of “zero” on personal property was ordered to be placed on the roll for a seven-year period.
7. **Related Property Tax Regulation.** Property Tax Rule 309 similarly makes the distinction between base year value appeals and other types of appeals. It states:
- “For applications involving base year value appeals that have not been heard and decided by the end of the two year period provided in section 1604 of the Revenue and Taxation Code and where the two-year period has been extended pursuant to subsections (b) or (c) of this regulation, the applicant’s opinion of value will be entered on the assessment roll for the tax year or years covered by the pending application, and will remain on the until the fiscal year in which the board makes a final determination on the application. No increased or escape taxes other than those required by a change in ownership or new construction, or resulting from application the inflation factor to the applicant’s opinion of value shall be levied for the tax years during which the board to act.

For applications appealing decline in value and personal property assessments that have not been heard decided by the end of the two-year period provided in section 1604, the applicant's opinion of value will be enrolled on the assessment roll for the tax year or years covered by the pending application." <http://www.boe.ca.gov/proptaxes/pdf/r309.pdf>

COST ESTIMATE

The Board would incur insignificant costs (less than \$10,000) in informing and advising county assessors, the public, and staff of the change in law.

REVENUE ESTIMATE

This bill has no direct revenue impact.

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